



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

July 30, 2018

Mr. Christopher S. Pugsley, Esq.  
Thompson and Pugsley, PLLC  
1225 19<sup>th</sup> Street NW, Suite 300  
Washington, D.C., 20036

SUBJECT: REQUEST FOR LEGAL ADVISORY OPINION ON RESEARCH AND  
DEVELOPMENT LICENSE FOR WESTERN URANIUM CORPORATION  
MINERAL ABLATION

Dear Mr. Pugsley:

The U.S. Nuclear Regulatory Commission (NRC) staff has received your letter dated June 2, 2017 (NRC's Agencywide Documents Access and Management System [ADAMS] Accession Number ML17167A333), that requested a "legal advisory opinion" on behalf of Western Uranium Corporation (WUC) related to a potential research and development (R&D) license application. In your letter, you stated WUC wishes to obtain an R&D license of limited scope and timeframe to gather data and other information to demonstrate that it can operate ablation technology on a commercial scale and produce environmentally benign waste. Your letter asked for an advisory opinion on the type of license that could be issued and the appropriate guidance to follow. Your subsequent September 13, 2017 letter (ADAMS Accession Number ML17307A167) stated that WUC would request an R&D license from the NRC because the WUC facility would be in a Non-Agreement State. While the NRC does not issue legal advisory opinions, the remainder of this letter provides the NRC staff's response to your June 2, 2017 request.

**Type of License**

The NRC staff notes that there is no specific provision in the applicable 10 CFR Part 40 regulations for an "R&D license" (i.e., a license of limited scope and license term with different requirements). Therefore, an application for a license to extract or concentrate source material using the ablation technology must meet all applicable 10 CFR Part 40 and Appendix A requirements, even if the application is for research and development purposes. If the applicable requirements are met, a uranium milling license would be issued. The NRC staff recognizes the limited scope of the WUC request and notes that applicants can request exemptions pursuant to 10 CFR 40.14, "Specific exemptions" or propose alternatives to the specific requirements in 10 CFR Part 40, Appendix A, "Criteria Relating to the Operation of Uranium Mills and the Disposition of Tailings or Wastes Produced by the Extraction or Concentration of Source Material From Ores Processed Primarily for Their Source Material Content."

**Applicable Guidance for Preparing a Uranium Milling License Application**

In your June 2, 2017 letter, you described WUC's proposed approach, which would follow the guidance in NUREG-1556, Volume 7, "Consolidated Guidance About Materials Licenses: Program-Specific Guidance About Academic, Research and Development, and Other Licenses of Limited Scope Including Gas Chromatographs and X-Ray Fluorescence Analyzers." Specifically, you stated, "WUC's intent is to provide NRC Staff with adequate information to demonstrate that all requirements described under the Report [NUREG-1556, Volume 7] are satisfied, as well as any other relevant data and information necessary to satisfy the regulatory mandate of 10 CFR Part 40." The NRC staff reviewed NUREG-1556, Volume 7, and finds that it is insufficient guidance for preparation of a uranium milling license application. Chapter 1 of the NUREG-1556, Volume 7 specifically notes that it is not intended to address licenses of broad scope, licenses for manufacturing and distribution of byproduct material, or licenses for the use of source, or special nuclear material. The guidance does not address in detail the requirements contained in 10 CFR Part 40, and corresponding NRC staff acceptance criteria, that would be used to review a uranium milling license application of this nature. Therefore, WUC's application should not rely on this guidance beyond using it to inform the general structure or layout of an application. The NRC staff's NUREG-2126, Standard Review Plan for Conventional Uranium Mill and Heap Leach Facilities, contains the detailed guidance related to conventional uranium mills. Additionally, NRC Regulatory Guide 3.5 "Standard Format and Content Guide of License Applications for Uranium Mills," also contains information relevant to uranium mill license applications. The NRC staff recognizes that if WUC decides to request exemptions to 10 CFR Part 40 or propose alternative standards to 10 CFR Part 40, Appendix A, portions of these guidance documents may not be applicable.

The NRC staff recognizes that further discussions prior to submittal of an application could be helpful. These further discussions could either be in the form of public meetings or through an NRC staff-led pre-submission audit of a draft version of WUC's application.

The NRC staff also recognizes the unique nature of WUC's request and is committed to working with WUC to identify a path forward to provide WUC with the opportunity to perform its testing in a manner that is consistent with the NRC's regulations. During this process, we will remain mindful of NRC's Principles of Good Regulation (Independence, Openness, Efficiency, Clarity, and Reliability).

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of NRC's ADAMS. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

If you have any questions concerning the above, please contact Douglas Mandeville at (301) 415-0724 or via email at [Douglas.Mandeville@nrc.gov](mailto:Douglas.Mandeville@nrc.gov).

Sincerely,

*/RA/*

John Tappert, Director  
Division of Decommissioning, Uranium Recovery  
and Waste Programs  
Office of Nuclear Material Safety  
and Safeguards

cc:

SUBJECT: REQUEST FOR LEGAL ADVISORY OPINION ON RESEARCH AND  
DEVELOPMENT LICENSE FOR WESTERN URANIUM CORPORATION  
MINERAL ABLATION, DATED JULY 30, 2018

**ADAMS Accession No.: ML17311A280**

<b>OFC</b>	DUWP/URLB	DUWP/URLB	OGC	DUWP
<b>NAME</b>	D. Mandeville	B. VonTill	TBarczy/JOlmstead	J. Tappert
<b>DATE</b>	6/12/2018	6/13/2018	6/28/2018 (via email)	07/30/2018

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